

Message

From: Binder, Jonathan [Binder.Jonathan@epa.gov]
Sent: 6/5/2018 2:16:33 PM
To: Rodriguez, Roberto [Rodriguez.Roberto@epa.gov]
CC: OKeefe, Susan [OKeefe.Susan@epa.gov]; King, Carol [King.Carol@epa.gov]
Subject: Letter to a Tribal Leader: Regarding Enforcement
Attachments: Nooksack unilateral AO 03 27 17.pdf; Region 8 Letter to Ute Tribal Chairman 6.5.17.pdf

Good morning Roberto,

Thanks again for touching base with me about the plan to move forward with an UAO against the First Mesa Consolidated Villages for violations at the Polacca PWS. I'd like to follow up with you on a couple of things, including: (1) the timing of a letter to the tribe about the violations; and (2) whether this will be a 1414 UAO or an 1431 administrative action.

As we discussed, and you will note after reading the attached letters, the "notice" letter to the tribe is a bit tricky. I'm asking the Regions for the "final" word versions (to make it easier to craft/convert/send/etc.):

- Region 8 letter to a tribe regarding violations and being in the "final stages of evaluating its enforcement options, including the issuance of an administrative compliance order...." Letter sent 6/5/17. The letter states: "The EPA is preparing to proceed with formal enforcement to ensure public health protection based on the Tribe's failure to respond to prior information and informal efforts offered by the EPA to assist the Tribe to return the systems to compliance with the SDWA."
 - Region 8 had requested OECA AA concurrence on a unilateral compliance order on 5/10/17
 - OECA AA concurred on 6/9/2017
- Region 10 letter to a tribe regarding plans to issue six UOAs to address serious violations of the SDWA. Letter sent 3/27/2017. The letter states: "The EPA will issue the Unilateral Orders unless, by April 3, 2017, the Nooksack Indian Tribe signs and returns the enclosed Administrative Orders on Consent (Consent Orders) or provides evidence that the underlying violations have been fully returned to compliance."
 - Region 8 requested OECA AA concurrence on 3/3/17.
 - OECA AA concurred on 3/22/2017. Note the letter says "Consistent with our discussions, if the Tribe does not respond favorably to a final request that they agree to sign Administrative Orders on Consent (in lieu of UAOs), I ask that the Region memorize the fact in the letter transmitting the UAOs to the Tribal Chairman and the Tribal Council."

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